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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Michael J. Cafarella et al.

Assignee: Tellme Networks, Inc.

Title: METHOD AND SYSTEM FOR PROVIDING INTERACTIVE TELEPHONY SESSIONS

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APPEAL BRIEF

This Appeal Brief, filed in triplicate, is in support of the Notice of Appeal dated June 13, 2005.

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INDEX

I. REAL PARTY IN INTEREST

The real party in interest is the assignee, Tellme Networks, Inc., pursuant to the Assignment recorded in the U.S. Patent and Trademark Office on March 28, 2001 on Reel 011636, Frame 0153.

II. RELATED APPEALS AND INTERFERENCES

Based on information and belief, there are no other appeals or interferences that could directly affect or be directly affected by or have a bearing on the decision by the Board of Patent Appeals in the pending appeal.

III. STATUS OF CLAIMS

Claims 1-44 and 55-73 are pending. Claims 45-54 are temporarily withdrawn from further consideration as being drawn to a non-elected invention, but may be reconsidered upon allowance of the generic claim (Claim 41).

Claims 1-44 and 55-73 stand rejected.

In the present paper, rejected Claims 1-44 and 55-73 are appealed.

Claims 1-73 are listed in the Claims Appendix.

IV. STATUS OF AMENDMENTS

Claims 41 and 55 were amended in this application after a First Office Action. No amendments were filed after the Final Office Action dated February 11, 2005.

V. SUMMARY OF CLAIMED SUBJECT MATTER

Applicants' Figure 1A (shown below) illustrates a simplified block diagram of a system linking a calling party, a value-added intermediary for receiving a request from the calling party, and the called party.

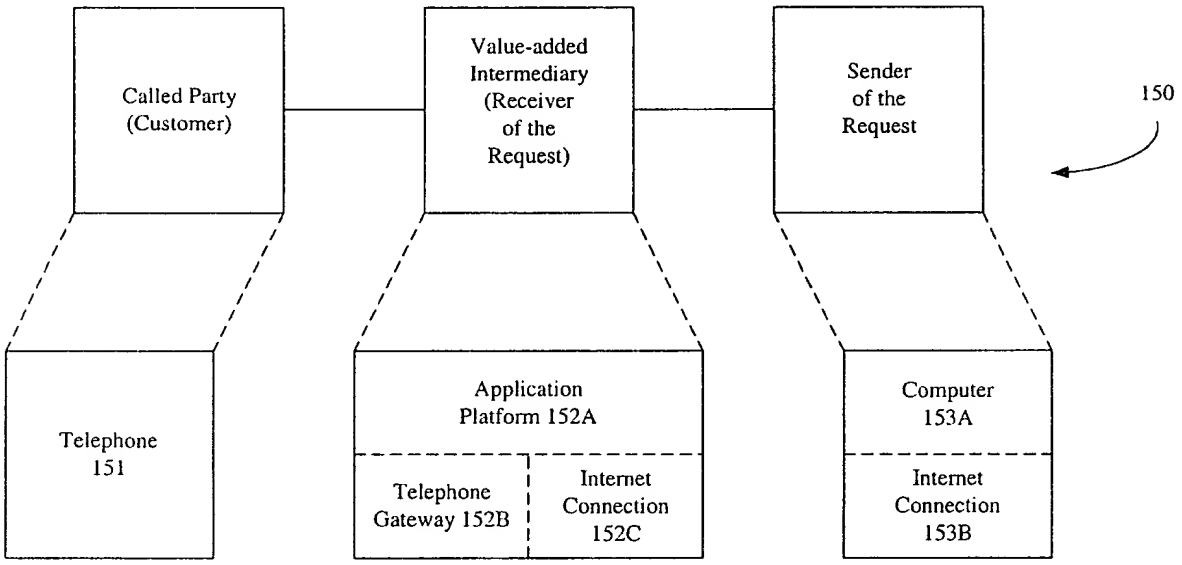


Figure 1A

Figure 1B (also shown below) illustrates an exemplary system 152 for providing an automated, interactive telephony session in accordance with the present invention. In this embodiment, system 152 can include a telephony interface 101 (including a plurality of telephony servers 102), an event queue interface 103 (including one or more event queue servers 104 and a load balancer 105), an SMTP gateway interface 109 (including one or more mail servers 110 and a load balancer 111), an accounting interface 114 (including an HTTP server 116 and a log

database 115), and an event content unit 106 (including a content server 107 and a content database 108).

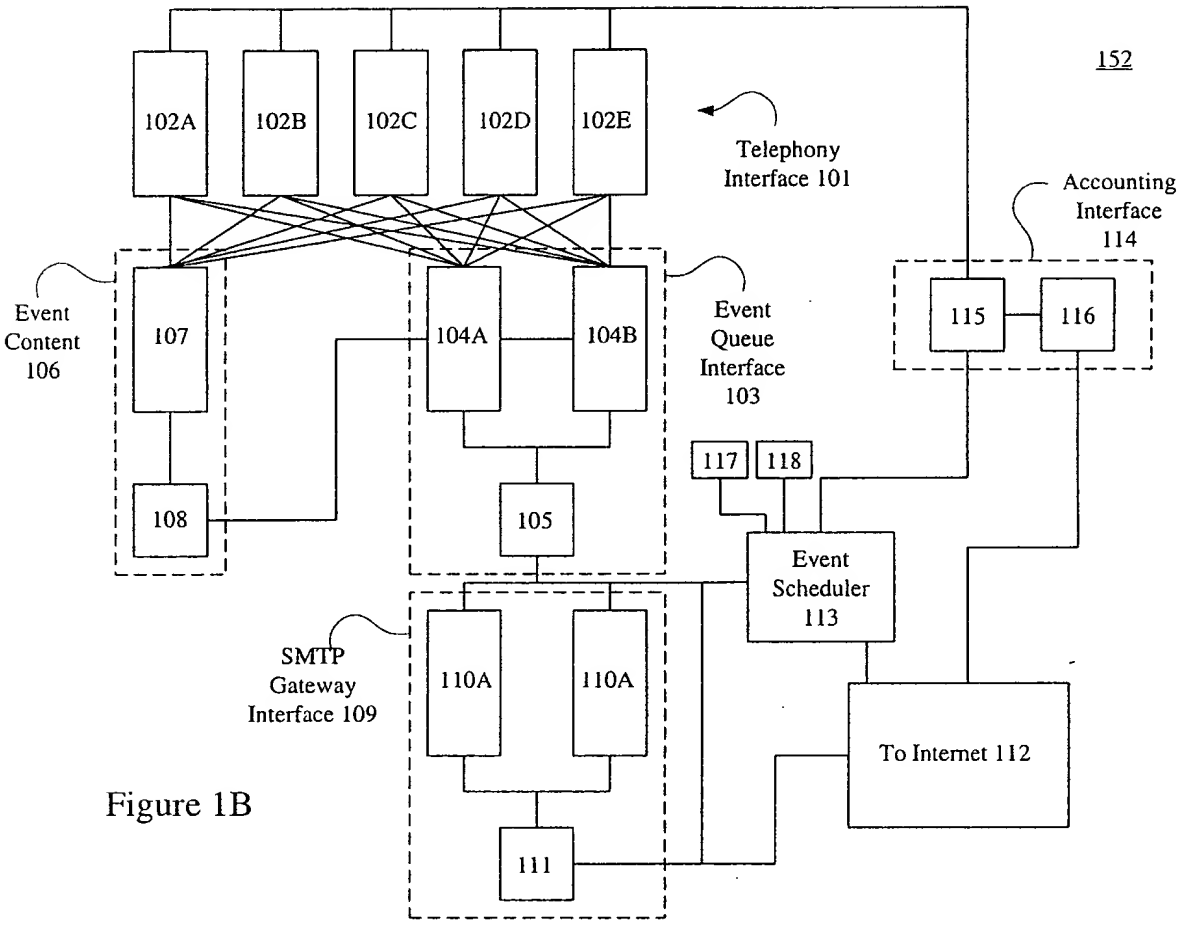


Figure 1B

As described by Applicants in the Summary of the Invention, paragraphs [0005]-[0013]:

> [0005] The present invention includes a system and method for providing an interactive telephony session in which a called party can respond with voice or DTMF inputs to various prompts, thereby proceeding with a transaction and/or providing valuable feedback to the calling party. In a simplified system in accordance with the present invention, a message (the "Request") from the calling party (the "Sender") is received by a value-added intermediary (the "Receiver"). The Request includes the information to initiate the

interactive telephony session with the called party (the "Customer") as well as the information to conduct that session. In one embodiment, the information to conduct the interactive telephony session includes a URL that provides an application in VoiceXML (Voice Extensible Markup Language).

[0006] In one embodiment, the Sender can send the Request to the Receiver using electronic mail (email). Then, using its application platform, the Receiver initiates the interactive telephony session using a telephone gateway. The application platform and the telephone gateway of the receiver can be implemented using various components in accordance with the present invention. In one embodiment, such a system can include an SMTP (Simple Mail Transfer Protocol) gateway interface that can receive the email from the Sender via the Internet. The SMTP gateway interface converts the email Request into a format that can be analyzed by an event queue interface.

[0007] In one embodiment, the event queue interface determines whether the Request passes one or more policy checks. One policy check could include confirming required resources, such as determining whether an associated file is attached to or referenced in the Request. Another policy check could include enforcing a Sender-specific limitation, such as rejecting any requests for calls placed/not placed during certain hours. Yet another policy check could include a Customer-specific limitation, such as limiting the volume (i.e. number) of calls that the Customer receives in a predetermined time period. Another policy check could include load management, such as modifying the selection of a plurality of telephony servers, determining a load-balancing scheme, maximizing the number of simultaneous calls as a percentage of capacity, and providing traffic-smoothing parameters. Yet another policy check could be security maintenance including data origin authentication, data integrity, as well as data confidentiality. In one typical embodiment, security maintenance

is provided by using message digest authentication.

[0008] Assuming the Request passes the policy checks, the event queue interface then determines the availability of a telephony server to place an outgoing call. In accordance with one feature of the present invention, the telephony servers have ports that can be configured to receive incoming calls as well as to send outgoing calls. Thus, determining which telephony server will be available for an outgoing call can be a challenging task.

[0009] In the present invention, the assignment of a particular outgoing call to a particular telephony server is based on information gathered by an event queue server. Specifically, in one embodiment, an event queue server periodically queries and gathers various statistics of usage from one or more telephony servers. When an event queue server is faced with the decision of dispatching a request to one of the telephony servers, the event queue server picks a semi-randomized one, but biases toward the telephony server with the least load at that point in time. The choice is randomized so that several event queue servers can work in parallel, yet not overload a single telephony server. At the earliest availability, the event queue interface dispatches the Request to the appropriate telephony server, which in turn generates the outgoing call to the Customer and renders VoiceXML during the interactive telephony session.

[0010] Advantageously, the system of the present invention is scalable for low or high volume applications and can provide multiple levels of feedback to various Senders. For example, in accordance with one feature of the present invention, the status of a Request and its associated interactive telephony session can be logged into an accounting interface, thereby allowing the Sender to determine the success of its Request program as well as the efficiency of Receiver's system. In one embodiment, the accounting interface includes a standard log

database and an HTTP server, thereby allowing Senders to view their respective accounts with the Receiver via the Internet. Reports regarding the Requests can include information to substantiate billing of the Sender by the Receiver, monitor the efficiency of system, and determine the "quality" of the interactions in the actual telephony sessions.

[0011] In accordance with one embodiment, the present invention can also provide multiple levels of service to various Senders. Specifically, Requests can be processed on a first-come first-served basis. In other words, no scheduling of the Request is provided for this first, basic (e.g. non-guaranteed) level of service.

[0012] In a second, enhanced level of service, the Request can be sent to an event scheduler. In one embodiment, the Sender would pay a higher fee for the enhanced level of service than that charged for the basic level of service. In return, the Receiver could schedule the Request to be sent at a Sender-designated time. This enhanced level of service could include additional efforts by the Receiver to successfully complete the Request for the Sender. These additional efforts could include increasing the number of retries for a rejected Request, or automatically rescheduling a "lost" Request within a predetermined interval. In another embodiment, the event scheduler could prioritize the Requests in the event queue interface such that Requests in the second, enhanced level of service are processed before Requests in the first, basic level of service. In fact, the present invention can establish any number and type of priorities using input from the Sender, the Customer, the Receiver, or a combination thereof.

[0013] In accordance with one feature of the present invention, the Receiver can use its own Customer database (including the Customer's preferences) to provide additional value-added services to the Sender. Specifically, in one embodiment of the present invention, the Receiver

> could automatically check both a Sender database (having Sender preferences) and the specific Customer database before sending the Request to the event queue interface. If a conflict is detected between these databases, the Receiver can determine which database should take priority. In general, for Customer satisfaction, the Receiver would typically ensure that any Customer preference is honored and therefore resolve the conflict by using the Customer database instead of the Sender database. Thus, Senders do not have to set up policies for every scenario. Instead, Senders can advantageously leverage behavior/preference information already gathered in the Customer database by the Receiver.

The patentability of independent claims 1, 14, 23, 41, 55, and 62 is argued. Therefore, Applicants identify exemplary portions of the Specification where the recited elements of those claims are described.

Claim 1 recites:

> A method for providing a telephony session, the method including:
> receiving an electronic mail request from a third party to provide the telephony session;
> calling a customer in accordance with the request;
> accessing a URL providing a VoiceXML application in accordance with the request;
> running the VoiceXML application when the customer answers; and
> responding to an interaction with the customer during the telephony session.

These steps of Claim 1 are described in paragraphs [0005] and [0006], which are quoted above.

Claim 14 recites:

> A system of providing a telephony session requested by a third party, the system including:
> a telephony server for calling a first customer, accessing a URL providing a VoiceXML application, running the VoiceXML application

when the first customer answers, and responding to an interaction with the first customer during the telephony session, wherein the telephony server configurably receives an incoming call from a second customer.

These elements of Claim 14 are described in paragraphs [0005] and [0008], which are quoted above.

Claim 23 recites:

A system for providing a telephony session, the method including:
means for receiving an electronic mail request from a third party to provide the telephony session;
means for calling a customer in accordance with the request;
means for accessing a URL providing a VoiceXML application in accordance with the request;
means for running the VoiceXML application when the customer answers; and
means for responding to an interaction with the customer during the telephony session.

These elements of Claim 23 are described in paragraphs [0005 and [0006], which are quoted above.

Claim 41 recites:

A method of allowing an intermediate party to facilitate an interactive telephony session between a third party and a customer, the method comprising:
receiving an electronic request for the interactive telephony session from the third party;
determining if the request passes a policy check, wherein the policy check is set by at least one of the third party, the customer, and the intermediate party; and
initiating the interactive telephony session with the customer if the request passes the policy check.

These steps of Claim 41 are described in paragraphs [0005], [0007], and [0008], which are quoted above.

Claim 55 recites:

> A computerized method for providing an interactive telephony session, the method comprising:
> calling a customer pursuant to an occurrence of a triggering event, the triggering event including an electronic request for the interactive telephony session;
> executing a software program responsive to a voice input when the customer answers; and
> responding to a voice input of the customer during the interactive telephony session.

These steps of Claim 55 are described in paragraphs [0005] and [0006], which are quoted above.

Claim 62 recites:

> A method for providing a telephony session, the method including:
> receiving an HTTP request from a third party to provide the telephony session;
> calling a customer in accordance with the request;
> accessing a URL providing a VoiceXML application in accordance with the request;
> running the VoiceXML application when the customer answers; and
> responding to an interaction with the customer during the telephony session.

These steps of Claim 62 are described in paragraphs [0005] and [0006], which are quoted above, as well as in paragraph [0032], which teaches that an HTTP formatted request can be used instead of an email request.

The further patentability of dependent claims 2, 6, 9, 10, 11, 12, 14, 19, 25, 33, 36, 37, 38, 39, 63, 67, 70, 71, 72, 73 is also argued. Therefore, Applicants identify exemplary

portions of the Specification where the recited elements of those claims are described.

Moreover, Claim 2 recites "storing the status of the telephony session for access by the third party". This step of Claim 2 is described in paragraph [0010], which is quoted above.

Moreover, Claim 6 recites, "receiving a plurality of requests from a plurality of third parties to provide a plurality of telephony sessions". This step of Claim 6 is described in paragraphs [0006], [0008], and [0010], which are quoted above.

Moreover, Claim 9 recites "determining whether the request passes a policy check". This step of Claim 9 is described in paragraph [0007], which is quoted above.

Moreover, Claims 10, 11, and 12 respectively recite wherein the policy check is set by the third party, customer, and the receiver of the request. These elements of Claims 10, 11, and 12 are described in paragraph [0007], which is quoted above.

Moreover, Claim 19 recites, "wherein the request comprises an email". This element of Claim 19 is described in paragraph [0006], which is quoted above.

Moreover, Claim 25 recites "means for storing the status of the telephony session for access by the third party". This element of Claim 25 is described in paragraph [0010], which is quoted above.

Moreover, Claim 33 recites, "means for receiving a plurality of requests from a plurality of third parties to provide a plurality of telephony sessions". This element of Claim 33 is described in paragraphs [0006], [0008], and [0010], which are quoted above.

Moreover, Claim 36 recites "means for determining whether the request passes a policy check". This element of Claim 36 is described in paragraph [0007], which is quoted above.

Moreover, Claims 37, 38, and 39 respectively recite including means for receiving the policy check from the third party, customer, and the receiver of the request. These elements of Claim 36 are described in paragraph [0007], which is quoted above.

Moreover, Claim 63 recites "storing the status of the telephony session for access by the third party". This step of Claim 63 is described in paragraph [0010], which is quoted above.

Moreover, Claim 67 recites, "receiving a plurality of requests from a plurality of third parties to provide a plurality of telephony sessions". This step of Claim 67 is described in paragraphs [0006], [0008], and [0010], which are quoted above.

Moreover, Claim 70 recites "determining whether the request passes a policy check". This step of Claim 70 is described in paragraph [0007], which is quoted above.

Moreover, Claims 71, 72, and 73 respectively recite wherein the policy check is set by the third party, customer, and the receiver of the request. These elements of Claims 71, 72, and 73 are described in paragraph [0007], which is quoted above.

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The following grounds of rejection are to be reviewed on appeal:

(A) Claims 1, 13-14, 23, 40, and 55-62 being rejected under 35 USC 103(a) as being obvious over U.S. Patent 6,219,638 (Padmanabhan) in view of W3C VoiceXML Forum (Forum).

(B) Claims 2-3, 5-12, 15, 17-22, 24-39, 63-64, and 66-73 being rejected under 35 USC 103(a) as being obvious over Padmanabhan in

view of Forum and further in view of U.S. Patent 6,643,262 (Larsson).

(C) Claims 4, 16, 29-31, and 65 being rejected under 35 USC 103(a) as being obvious over Padmanabhan in view of Forum and Larsson, and further in view of U.S. Patent 5,381,546 (Servi).

(D) Claims 41-44 being rejected under 35 USC 103(a) as being obvious over Padmanabhan in view of U.S. Patent 6,578,068 (Bowman-Amuah).

VIII. ARGUMENTS

A. Claims 1, 13-14, 23, 40, and 55-62 are patentable over U.S. Patent 6,219,638 (Padmanabhan) in view of W3C VoiceXML Forum (Forum)

1. Padmanabhan Overview

FIG. 1 of Padmanabhan, shown below for convenience, illustrates a block diagram corresponding to a unified messaging system 10.

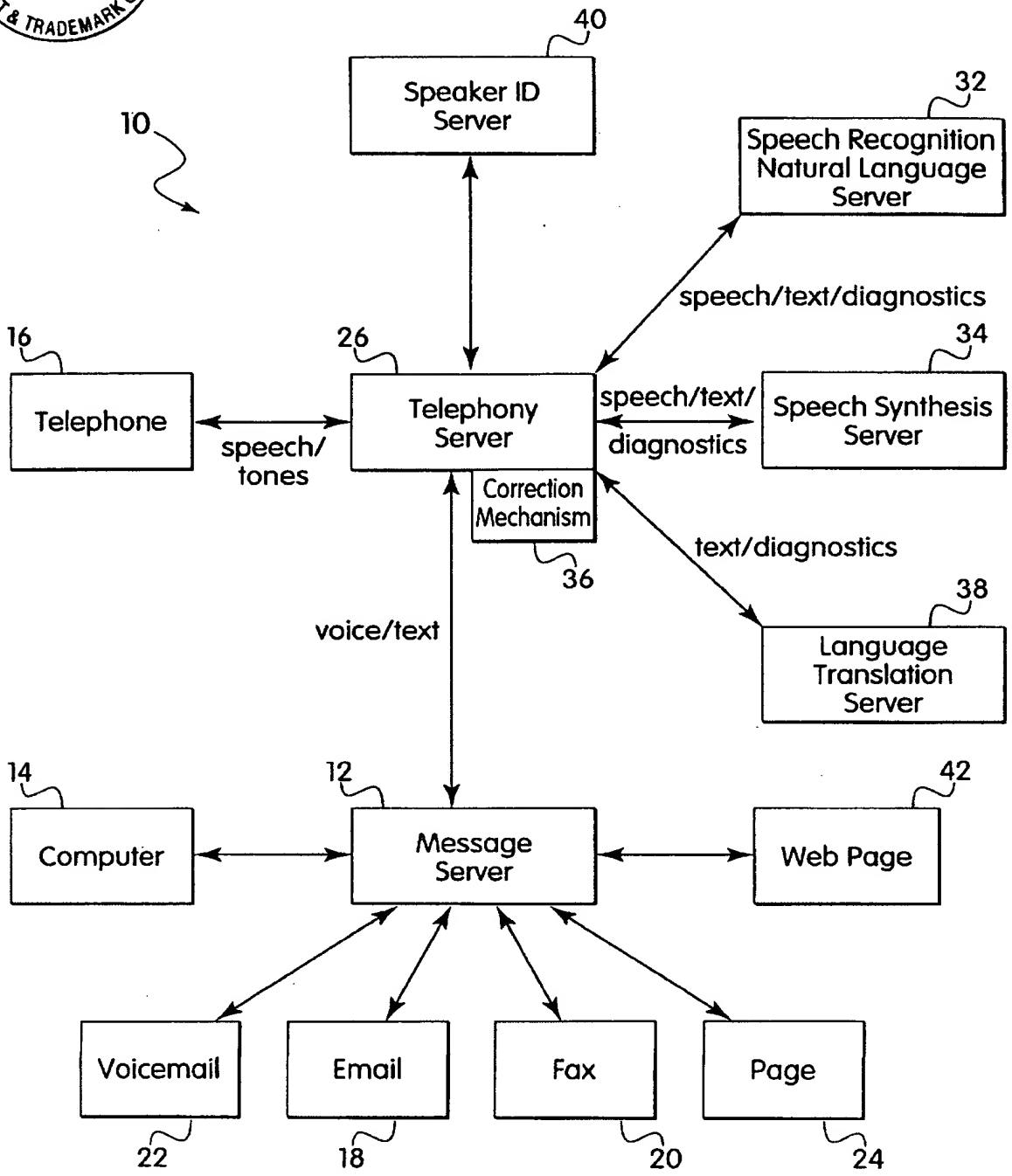


Fig. 1

As taught by Padmanabhan in col. 3, lines 21-32:

> A message server 12 is a universal hub that receives/sends and stores all messages. Message server 12 can be accessed either through a computer 14, or through a telephone 16 for the of retrieving messages, or to send a message in one of several formats (email 18, fax 20, voicemail 22, page 24) also, some telephones and personal digital assistants (PDAs) can receive text messages), or to manipulate the users messages on message server 12, for example deletion, replying, etc. Further, message server 12 may also receive messages for the user directly via email 18, fax 20 or page 24.

As further taught by Padmanabhan in col. 3, lines 50-60:

> A telephone call is placed by a first user and is taken by telephony server 26, which then gives the first user the option of leaving a message for another user or retrieving the messages of the first user or manipulating the first user's messages. The options are provided to the first user through a prompt that is provided by telephony server 26. The first user may then be provided a choice of selecting one option, which may be specified either through a predefined tone (press 1 for option 1, press 2 for option 2, etc.) or by recording the verbal response of the first user and converting the speech to text by a speech recognition server 32.

2. Forum: Overview

The Abstract of the Forum states:

> This document specifies VoiceXML, the Voice Extensible Markup Language. VoiceXML is designed for creating audio dialogs that feature synthesized speech, digitized audio, recognition of spoken and DTMF key input, recording of spoken input, telephony, and mixed-initiative conversation. Its major goal is to bring the advantages of web-based development and content

delivery to interactive voice response applications.

3. Applicants' limitations recited in Claims 1, 13-14, 23, 40, and 55-62 are not taught by Padmanabhan and Forum.

Claim 1 recites:

> A method for providing a telephony session, the method including:
> receiving an electronic mail request from a third party to provide the telephony session;
> calling a customer in accordance with the request;
> accessing a URL providing a VoiceXML application in accordance with the request;
> running the VoiceXML application when the customer answers; and
> responding to an interaction with the customer during the telephony session.

Applicants submit that neither Padmanabhan nor Forum disclose or suggest various steps of Claim 1. For example, the Office Action cites col. 3, lines 21-30 as teaching "receiving an electronic mail request from a third party to provide the telephony session". Applicants traverse this characterization.

In this passage, Padmanabhan does teach that a message server 12 may also receive messages for the user directly via email 18, fax 20, or page 24. However, this passage fails to teach anything regarding such an email including a request from a third party to provide the telephony session. Thus, the characterization in the Office Action is clearly hindsight, which is not permitted.

The Office Action cites telephone 16, telephony server 26, and message server 12 of Fig. 1 as teaching calling a customer in accordance with the request. However, because Padmanabhan fails to teach an electronic mail request from a third party to provide the telephony session, Padmanabhan must logically fail

to teach calling the customer in accordance with the request. In fact, Padmanabhan explicitly teaches a method in which a user may leave a message for another user using telephone 16, and the functionality of various system components involved in the method. Col. 3, lines 46-49.

Forum fails to remedy these deficiencies of Padmanabhan. Therefore, even the combination of Padmanabhan and Forum fails to teach accessing a URL providing a VoiceXML application in accordance with the request.

Because Padmanabhan and Forum fail to disclose or suggest the recited steps of receiving, calling, and accessing, Applicants submit that Claim 1 is patentable over Padmanabhan and Forum.

Claim 13 depends from Claim 1 and therefore is patentable for at least the reasons presented for Claim 1. Based on those reasons, Applicants submit that Claim 13 is patentable over Padmanabham and Forum.

Moreover, Claim 14 recites, in part, "wherein the telephone server configurably receives an incoming call from a second customer". The Office Action fails to cite any passage in the cited references that teaches this limitation. Therefore, Applicants submit that Claim 14 is patentable over Padmanabhan and Forum.

Claim 23 recites:

> A system for providing a telephony session, the method including:
> means for receiving an electronic mail request from a third party to provide the telephony session;
> means for calling a customer in accordance with the request;
> means for accessing a URL providing a VoiceXML application in accordance with the request;
> means for running the VoiceXML application when the customer answers; and

means for responding to an interaction with the customer during the telephony session.

Therefore, Claim 23 is patentable for substantially the same reasons presented for Claim 1. Based on those reasons, Applicants submit that Claim 23 is patentable over Padmanabhan and Forum.

Claim 55 recites:

A computerized method for providing an interactive telephony session, the method comprising:
calling a customer pursuant to an occurrence of a triggering event, the triggering event including an electronic request for the interactive telephony session;
executing a software program responsive to a voice input when the customer answers; and
responding to a voice input of the customer during the interactive telephony session.

Therefore, Claim 55 is patentable for substantially the same reasons presented for Claim 1. Based on those reasons, Applicants submit that Claim 55 is patentable over Padmanabhan and Forum.

Claims 56-61 depend from Claim 55 and therefore are patentable for at least the same reasons presented for Claim 55. Based on those reasons, Applicants request reconsideration and withdrawal of the rejection of Claims 56-61.

Claim 62 recites:

A method for providing a telephony session, the method including:
receiving an HTTP request from a third party to provide the telephony session;
calling a customer in accordance with the request;
accessing a URL providing a VoiceXML application in accordance with the request;
running the VoiceXML application when the customer answers; and

responding to an interaction with the customer during the telephony session.

Therefore, Claim 62 is patentable for substantially the same reasons presented for Claim 1. Based on those reasons, Applicants submit that Claim 62 is patentable over Padmanabhan and Forum.

B. Claims 2-3, 5-12, 15, 17-22, 24-39, 63-64, and 66-73 are patentable under 35 U.S.C. 103(a) over Padmanabhan in view of Forum and further in view of Larsson.

1. Padmanabhan & Forum: Overview (see Section A)

2. Larsson: Overview

Larsson teaches a network control system 40 (see FIG. 1 below) that issues commands to dynamically reconfigure the communication paths within the various traffic routes of the network as well as to control the alarm systems within the exchanges of the network in order to fine tune the utilization of connection resources (both switching and transport) within the network. Col. 7, lines 9-15. The "modem camping" problem, i.e. when a subscriber accessing an on-line service through a modem uses the available bandwidth of the transmission channel only sporadically, can be ameliorated somewhat if at least the core telecommunications resources associated with an inactive circuit-switched telephony connection were released and made available for use by active datacom sessions or voice connections. Col. 3, lines 34-37, and col. 7, lines 16-20.

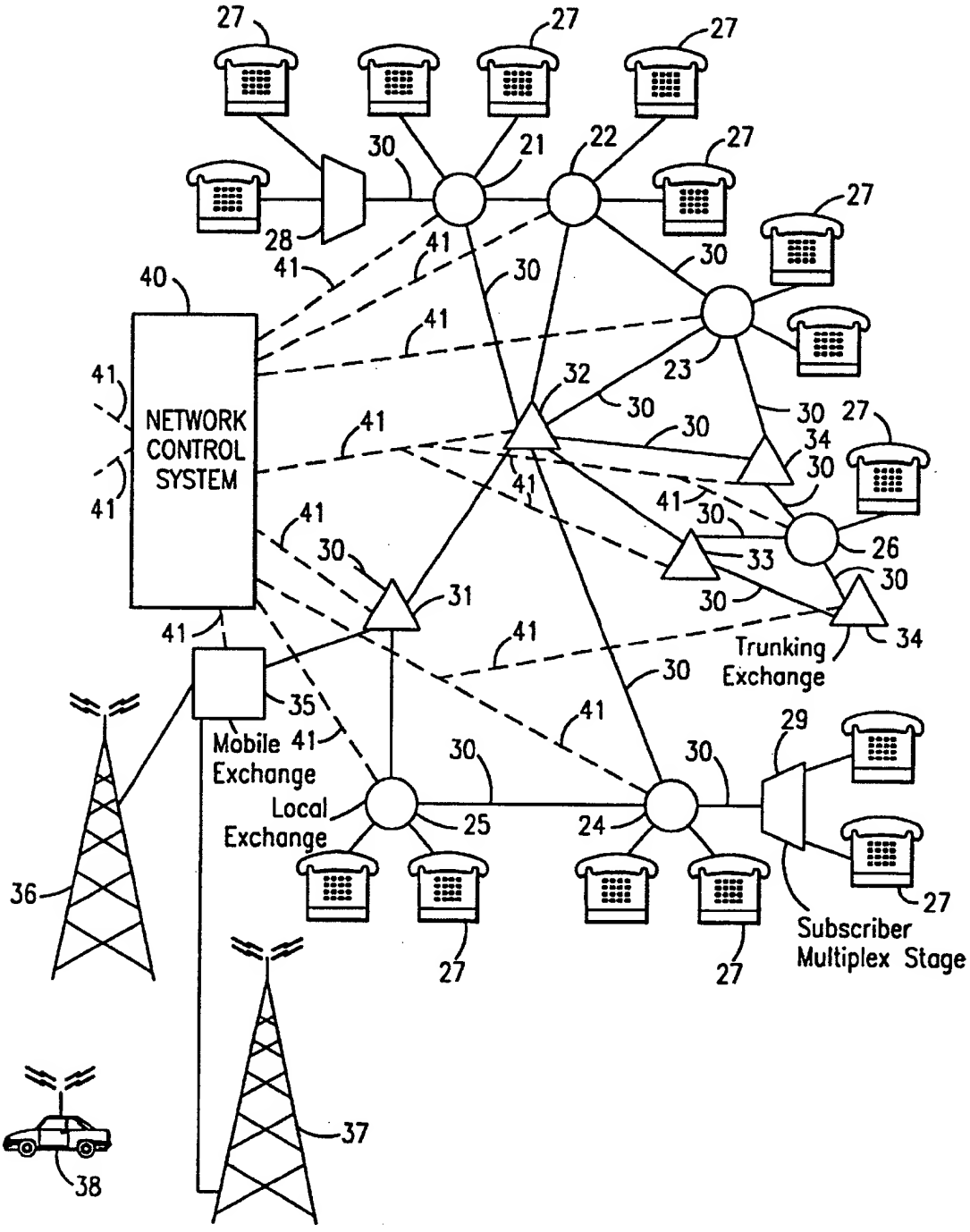


FIG. 1

3. Applicants' limitations recited in Claims 2-3, 5-12, 15, 17-22, 24-39, 63-64, and 66-73 are not taught by Padmanabhan, Forum, and Larsson.

Claims 2-3 and 5-12 depend from Claim 1 and therefore are patentable for at least the reasons presented for Claim 1. Notably, Larsson fails to remedy the deficiency of Padmanabhan and Forum with respect to the limitations of Claim 1. Therefore, Claims 2-3 and 5-12 are patentable over Padmanabhan, Forum, and Larsson.

Moreover, Claim 2 recites "storing the status of the telephony session for access by the third party". The Office Action cites Larsson, col. 16, lines 55-60, as teaching this limitation. Applicants traverse this characterization. This passage merely teaches that "a lack of activity for a preselected time interval over the circuit-switched telephony connection between line LI2 1032 and trunk TR1 1051 results in the status of the connection being changed from the active state to the paused state." Because this passage fails to disclose or suggest the storing of the status of the telephony session for access by the third party, Applicants submit that Claim 2 is further patentable over Padmanabhan, Forum, and Larsson.

Moreover, Claim 6 recites, "receiving a plurality of requests from a plurality of third parties to provide a plurality of telephony sessions". The Office Action cites Padmanabhan, col. 3, lines 35-37 and 27, as teaching this limitation. Applicants traverse this characterization. These passages, respectively, teach that an additional server can serve as an intermediary bridge between the incoming speech signal from telephone 16 and message server 12, and that some telephones and PDAs can receive text messages. Because these passages fail to disclose or suggest receiving a plurality of requests from a plurality of third parties to provide a plurality of telephony sessions, Applicants submit that Claim 6 is further patentable over Padmanabhan, Forum, and Larsson.

Moreover, Claim 9 recites "determining whether the request passes a policy check". The Office Action cites Larsson, col. 14, lines 48-56 as teaching this limitation. Applicants traverse this characterization. This passage refers to controlling access to a dynamic telephone connection service. Because this passage (or any passage in Padmanabhan) fails to disclose or suggest an electronic mail request passing a policy check, Applicants submit that Claim 9 is further patentable over Padmanabhan, Forum, and Larsson.

Moreover, Claims 10-12 respectively recite wherein the policy check is set by the third party, customer, and the receiver of the request. Applicants note that Larsson fails to disclose or suggest the electronic mail request passing a policy check and therefore, logically, must also fail to disclose or suggest who/what sets the policy check. Moreover, it is unclear to Applicants that Larsson can be characterized as including the recited third party, customer, and receiver of the request. Specifically, Larsson addresses the problem of "modem camping" in which a subscriber accessing on-line services through a modem uses the available bandwidth of the transmission channel only sporadically. Col. 2, lines 34-37 and col. 7, lines 15-19.

Applicants requested clarification on how a subscription service can call a "customer" in accordance with the request from the "third party" and run a VoiceXML application when the customer answers. Applicants also requested clarification on what element in Larsson constitutes the message server. The Office Action states the "subscription service doesn't call the 'customer', the system of Padmanabhan, Larsson, and Forum does". Applicants cannot determine the meaning of this statement. Based on the above arguments and remarks, Applicants submit that Claims 10-12 are further patentable over Padmanabhan, Larsson, and Forum.

Claims 15 and 17-22 depend from Claim 14 and therefore are patentable for at least the reasons presented for Claim 14. Notably, Larsson fails to remedy the deficiency of Padmanabhan and Forum with respect to the limitations of Claim 14. Therefore, Claims 15 and 17-22 are patentable over Padmanabhan, Forum, and Larsson.

Moreover, Claim 19 recites, "wherein the request comprises an email". The Office Action cites Padmanabhan, col. 3, lines 21-30 as teaching this limitation. Applicants traverse this characterization. As recited in Claim 18, from which Claim 19 depends, the request is from a third party and is to provide a telephony session. The passage cited by the Office Action teaches that message server 12 can be accessed either through a computer 14 or a telephone 16. Padmanabhan fails to teach a request to provide a telephony session using an email. Therefore, Applicants submit that Claim 19 is further patentable over Padmanabham, Forum, and Larsson.

Claims 24-39 depend from Claim 23 and therefore are patentable for at least the reasons presented for Claim 23. Notably, Larsson fails to remedy the deficiency of Padmanabhan and Forum with respect to the limitations of Claim 23. Therefore, Claims 24-39 are patentable over Padmanabhan, Forum, and Larsson.

Moreover, Claim 25 recites "means for storing the status of the telephony session for access by the third party". The Office Action cites Larsson, col. 16, lines 55-60, as teaching this limitation. Applicants traverse this characterization. This passage merely teaches that "a lack of activity for a preselected time interval over the circuit-switched telephony connection between line LI2 1032 and trunk TR1 1051 results in the status of the connection being changed from the active state to the paused state." Because this passage fails to disclose or

suggest the means for storing of the status of the telephony session for access by the third party, Applicants submit that Claim 25 is further patentable over Padmanabhan, Forum, and Larsson.

Moreover, Claim 33 recites, "means for receiving a plurality of requests from a plurality of third parties to provide a plurality of telephony sessions". The Office Action cites Padmanabhan, col. 3, lines 35-37 and 27, as teaching this limitation. Applicants traverse this characterization. These passages, respectively, teach that an additional server can serve as an intermediary bridge between the incoming speech signal from telephone 16 and message server 12, and that some telephones and PDAs can receive text messages. Because these passages fail to disclose or suggest means for receiving a plurality of requests from a plurality of third parties to provide a plurality of telephony sessions, Applicants request further reconsideration and withdrawal of the rejection of Claim 33.

Moreover, Claim 36 recites "means for determining whether the request passes a policy check". The Office Action cites Larsson, col. 14, lines 48-56 as teaching this limitation. Applicants traverse this characterization. This passage refers to controlling access to a dynamic telephone connection service. Because this passage fails to disclose or suggest an electronic mail request passing a policy check, Applicants request further reconsideration and withdrawal of the rejection of Claim 36.

Moreover, Claims 37-39 respectively recite including means for receiving the policy check from the third party, customer, and the receiver of the request. Applicants note that Larsson fails to disclose or suggest the means for determining whether the electronic mail request passes a policy check and therefore, logically, must also fail to disclose or suggest who/what sets

the policy check. Moreover, it is unclear to Applicants that Larsson can be characterized as including the recited third party, customer, and receiver of the request. Specifically, Larsson addresses the problem of "modem camping" in which a subscriber accessing on-line services through a modem uses the available bandwidth of the transmission channel only sporadically. Col. 2, lines 34-37 and col. 7, lines 15-19.

Applicants requested clarification on how a subscription service can call a "customer" in accordance with the request from the "third party" and run a VoiceXML application when the customer answers. Applicants also requested clarification on what element in Larsson constitutes the message server. The Office Action states the "subscription service doesn't call the 'customer', the system of Padmanabhan, Larsson, and Forum does". Applicants cannot determine the meaning of this statement. Based on the above arguments and remarks, Applicants submit that Claims 37-39 are further patentable over Padmanabhan, Larsson, and Forum.

Claims 63-64 and 66-73 depend from Claim 62 and therefore are patentable for at least the reasons presented for Claim 62. Notably, Larsson fails to remedy the deficiency of Padmanabhan and Forum with respect to the limitations of Claim 62. Therefore, Claims 63-64 and 66-73 are patentable over Padmanabhan, Forum, and Larsson.

Moreover, Claim 63 recites "storing the status of the telephony session for access by the third party". The Office Action cites Larsson, col. 16, lines 55-60, as teaching this limitation. Applicants traverse this characterization. This passage merely teaches that "a lack of activity for a preselected time interval over the circuit-switched telephony connection between line LI2 1032 and trunk TR1 1051 results in the status of the connection being changed from the active state

to the paused state." Because this passage fails to disclose or suggest the storing of the status of the telephony session for access by the third party, Applicants request further reconsideration and withdrawal of the rejection of Claim 63.

Moreover, Claim 67 recites, "receiving a plurality of requests from a plurality of third parties to provide a plurality of telephony sessions". The Office Action cites Padmanabhan, col. 3, lines 35-37 and 27, as teaching this limitation. Applicants traverse this characterization. These passages, respectively, teach that an additional server can serve as an intermediary bridge between the incoming speech signal from telephone 16 and message server 12, and that some telephones and PDAs can receive text messages. Because these passages fail to disclose or suggest receiving a plurality of requests from a plurality of third parties to provide a plurality of telephony sessions, Applicants request further reconsideration and withdrawal of the rejection of Claim 67.

Moreover, Claim 70 recites "determining whether the request passes a policy check". The Office Action cites Larsson, col. 14, lines 48-56 as teaching this limitation. Applicants traverse this characterization. This passage refers to controlling access to a dynamic telephone connection service. Because this passage fails to disclose or suggest an electronic mail request passing a policy check, Applicants request further reconsideration and withdrawal of the rejection of Claim 70.

Moreover, Claims 71-73 respectively recite wherein the policy check is set by the third party, customer, and the receiver of the request. Applicants note that Larsson fails to disclose or suggest the electronic mail request passing a policy check and therefore, logically, must also fail to disclose or suggest who/what sets the policy check. Moreover, it is unclear to Applicants that Larsson can be characterized as including the

recited third party, customer, and receiver of the request. Specifically, Larsson addresses the problem of "modem camping" in which a subscriber accessing on-line services through a modem uses the available bandwidth of the transmission channel only sporadically. Col. 2, lines 34-37 and col. 7, lines 15-19.

Applicants requested clarification on how a subscription service can call a "customer" in accordance with the request from the "third party" and run a VoiceXML application when the customer answers. Applicants also requested clarification on what element in Larsson constitutes the message server. The Office Action states the "subscription service doesn't call the 'customer', the system of Padmanabhan, Larsson, and Forum does". Applicants cannot determine the meaning of this statement. Based on the above arguments and remarks, Applicants submit that Claims 71-73 are further patentable over Padmanabhan, Larsson, and Forum.

C. Claims 4, 16, 29-31, and 65 are patentable over Padmanabhan in view of Forum and Larsson, and further in view of Servi.

1. Padmanabhan, Forum, & Larsson: Overview (see Sections A/B)

2. Servi: Overview

Servi teaches a system for controlling the allocation of service among classes of requests for service by scheduling the performance of different types of tasks having different priorities based on probabilities. Col. 3, lines 41-45.

3. Applicants' limitations recited in Claims 4, 16, 29-31, and 65 are patentable over Padmanabhan, Forum, Larsson, and Servi.

Claim 4 depends from Claim 1 and therefore is patentable for at least the reasons presented for Claim 1. Notably, Larsson

and Servi fail to remedy the deficiency of Padmanabhan and Forum with respect to the limitations of Claim 1. Therefore, Claim 4 is patentable over Padmanabhan, Forum, Larsson, and Servi.

Claim 16 depends from Claim 14 and therefore is patentable for at least the reasons presented for Claim 14. Notably, Larsson and Servi fail to remedy the deficiency of Padmanabhan and Forum with respect to the limitations of Claim 14. Therefore, Claim 16 is patentable over Padmanabhan, Forum, Larsson, and Servi.

Claims 29-31 depend from Claim 23 and therefore are patentable for at least the reasons presented for Claim 23. Notably, Larsson and Servi fail to remedy the deficiency of Padmanabhan and Forum with respect to the limitations of Claim 23. Therefore, Claims 29-31 are patentable over Padmanabhan, Forum, Larsson, and Servi.

Claim 65 depends from Claim 62 and therefore is patentable for at least the reasons presented for Claim 62. Notably, Larsson and Servi fail to remedy the deficiency of Padmanabhan and Forum with respect to the limitations of Claim 62. Therefore, Claim 65 is patentable over Padmanabhan, Forum, Larsson, and Servi.

D. Claims 41-44 are patentable over Padmanabhan in view of Bowman-Amuah.

1. Padmanabhan: Overview (see Section A)

2. Bowman-Amuah: Overview

Bowman-Amuah teaches that when a user requests access to network resources, an Authorization service determines if the user has the appropriate permissions and either allows or disallows the access. Col. 81, lines 50-52.

3. Applicants' limitations recited in Claims 41-44 are patentable over Padmanabhan and Bowman-Amuah.

Claim 41 recites:

> A method of allowing an intermediate party to facilitate an interactive telephony session between a third party and a customer, the method comprising:
>
> receiving an electronic request for the interactive telephony session from the third party;
>
> determining if the request passes a policy check, wherein the policy check can be set by the third party, the customer, and the intermediate party; and
>
> initiating the interactive telephony session with the customer if the request passes the policy check.

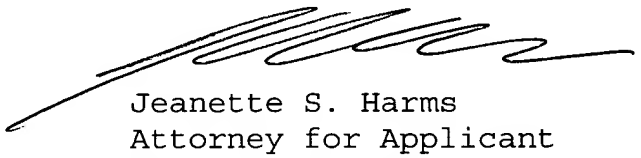
The Office Action cites Padmanabhan, col. 3, lines 21-30, as teaching the receiving step. Applicants submit that this characterization is impermissible hindsight, as discussed in reference to Claim 1. The Office Action further cites Bowman-Amuah, col. 81, lines 50-67, as teaching the determining step. As clarified by Applicants, the policy check can be set by the third party, the customer, and the intermediate party. Bowman-Amuah fails to teach this flexibility in policy check determination. Because Padmanabhan and Bowman-Amuah fail to disclose or suggest these steps, Applicants request reconsideration and withdrawal of the rejection of Claim 41.

Claims 42-44 depend from Claim 41 and therefore are patentable for at least the reasons presented for Claim 41. Therfore, Applicants submit that Claims 42-44 are patentable over Padmanabhan and Bowman-Amuah.

E. CONCLUSION

For the foregoing reasons, it is submitted that the Examiner's rejections of Claims 1-44 and 55-73 are erroneous, and reversal of these rejections is respectfully requested. Because Claim 41 is patentable over the cited references, Applicants also request at this time that Claims 45-54 (which depend from Claim 41) be reinstated and allowed.

Respectfully submitted,



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I hereby certify that this correspondence is being deposited with the United States Postal Service as FIRST CLASS MAIL in an envelope addressed to: Mail Stop Appeal Brief-Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on June 20, 2005.

6/20/2005 Rebecca A Baumann
Date Signature: Rebecca A. Baumann

VIII. CLAIMS APPENDIX

1. (Original) A method for providing a telephony session, the method including:

receiving an electronic mail request from a third party to provide the telephony session;

calling a customer in accordance with the request;

accessing a URL providing a VoiceXML application in accordance with the request;

running the VoiceXML application when the customer answers; and

responding to an interaction with the customer during the telephony session.

2. (Original) The method of Claim 1, further including storing the status of the telephony session for access by the third party.

3. (Original) The method of Claim 1, further including monitoring a plurality of telephony servers to determine availability for the telephony session.

4. (Original) The method of Claim 3, further including scheduling the telephony session for a predetermined time.

5. (Original) The method of Claim 3, further including prioritizing a plurality of telephony sessions.

6. (Original) The method of Claim 3, further including receiving a plurality of requests from a plurality of third parties to provide a plurality of telephony sessions.

7. (Original) The method of Claim 6, wherein the plurality of requests are dispatched to the plurality of telephony servers based on a semi-randomized selection process biased toward low load telephony servers.

8. (Original) The method of Claim 3, further including capturing a status of the telephony session.

9. (Original) The method of Claim 1, further including determining whether the request passes a policy check.

10. (Original) The method of Claim 9, wherein the policy check is set by the third party.

11. (Original) The method of Claim 9, wherein the policy check is set by the customer.

12. (Original) The method of Claim 9, wherein the policy check is set by a receiver of the request.

13. (Original) The method of Claim 1, further including reformatting the request for processing.

14. (Original) A system of providing a telephony session requested by a third party, the system including:

a telephony server for calling a first customer, accessing a URL providing a VoiceXML application, running the VoiceXML application when the first customer answers, and responding to an interaction with the first customer during the telephony session, wherein the telephony server configurably receives an incoming call from a second customer.

15. (Original) The system of Claim 14, further including:

a plurality of telephony servers as recited in Claim 14; and

an event queue interface for monitoring a status of each of the plurality of telephony servers to determine availability for the telephony session.

16. (Original) The system of Claim 15, further including an event scheduler for scheduling the telephony session for a predetermined time.

17. (Original) The system of Claim 15, further including means for prioritizing a plurality of telephony sessions.

18. (Original) The system of Claim 15, further including a gateway for receiving a request from the third party to provide the telephony session.

19. (Original) The system of Claim 18, wherein the request comprises an email.

20. (Original) The system of Claim 15, wherein the event queue interface includes a plurality of event queue servers for receiving a plurality of requests from a plurality of third parties to provide a plurality of telephony sessions.

21. (Original) The system of 20, wherein the plurality of event queue servers dispatch the plurality of requests to the plurality of telephony servers based on a semi-randomized selection biased toward low load telephony servers.

22. (Original) The system of Claim 15, further including an accounting interface for capturing a status of the telephony session.

23. (Original) A system for providing a telephony session, the method including:

means for receiving an electronic mail request from a third party to provide the telephony session;

means for calling a customer in accordance with the request;

means for accessing a URL providing a VoiceXML application in accordance with the request;

means for running the VoiceXML application when the customer answers; and

means for responding to an interaction with the customer during the telephony session.

24. (Original) The system of Claim 23, wherein the means for receiving includes an SMTP gateway interface.

25. (Original) The system of Claim 23, further including means for storing the status of the telephony session for access by the third party.

26. (Original) The system of Claim 25, wherein the means for storing comprises a database and a server providing Internet access.

27. (Original) The system of Claim 23, further including means for monitoring a plurality of telephony servers to determine availability for the telephony session.

28. (Original) The system of Claim 27, wherein the means for monitoring includes an event queue interface.

29. (Original) The system of Claim 27, further including means for scheduling the telephony session for a predetermined time.

30. (Original) The system of Claim 29, wherein the means for scheduling includes a database regarding the customer.

31. (Original) The system of Claim 29, wherein the means for scheduling includes a database provided by the third party.

32. (Original) The system of Claim 27, further including means for prioritizing a plurality of telephony sessions.

33. (Original) The system of Claim 27, further including means for receiving a plurality of requests from a plurality of third parties to provide a plurality of telephony sessions.

34. (Original) The system of Claim 33, wherein the means for receiving a plurality of requests includes a plurality of HTML servers.

35. (Original) The system of 27, further including means for capturing a status of the telephony session.

36. (Original) The system of Claim 23, further including means for determining whether the request passes a policy check.

37. (Original) The system of Claim 36, further including means for receiving the policy check from the third party.

38. (Original) The system of Claim 36, further including means for receiving the policy check from the customer.

39. (Original) The system of Claim 36, further including means for receiving the policy check from a receiver of the request.

40. (Original) The system of Claim 23, further including means for reformatting the request for processing.

41. (Previously Presented) A method of allowing an intermediate party to facilitate an interactive telephony session between a third party and a customer, the method comprising:

receiving an electronic request for the interactive telephony session from the third party;

determining if the request passes a policy check, wherein the policy check can be set by the third party, the customer, and the intermediate party; and

initiating the interactive telephony session with the customer if the request passes the policy check.

42. (Original) The method of Claim 41, wherein the policy check includes confirming required resources.

43. (Original) The method of Claim 42, wherein confirming required resources includes determining whether an associated file is attached to the request.

44. (Original) The method of Claim 42, wherein confirming required resources includes determining whether an associated file is referenced in the request.

45. (Withdrawn) The method of Claim 41, wherein the policy check includes rejecting any request for the session to be placed or not placed during certain hours.

46. (Withdrawn) The method of Claim 41, wherein the policy check includes limiting a number of sessions that a customer receives in a predetermined time period.

47. (Withdrawn) The method of Claim 41, wherein the policy check includes load management.

48. (Withdrawn) The method of Claim 47, wherein load management includes modifying a selection process of a plurality of telephony servers.

49. (Withdrawn) The method of Claim 47, wherein load management includes determining a load-balancing scheme.

50. (Withdrawn) The method of Claim 47, wherein load management includes maximizing a number of simultaneous sessions as a percentage of capacity.

51. (Withdrawn) The method of Claim 47, wherein load management includes providing traffic-smoothing parameters.

52. (Withdrawn) The method of Claim 41, wherein the policy check includes security maintenance.

53. (Withdrawn) The method of Claim 52, wherein security maintenance includes considering at least one of request origin authentication, request integrity, and request confidentiality.

54. (Withdrawn) The method of Claim 53, wherein security maintenance includes using message digest authentication including a portion of the request.

55. (Previously Presented) A computerized method for providing an interactive telephony session, the method comprising:

calling a customer pursuant to an occurrence of a triggering event, the triggering event including an electronic request for the interactive telephony session;

executing a software program responsive to a voice input when the customer answers; and

responding to a voice input of the customer during the interactive telephony session.

56. (Original) The method of Claim 55, wherein the triggering event is an email message.

57. (Original) The method of Claim 55, wherein the triggering event is an HTTP request.

58. (Original) The method of Claim 55, wherein the triggering event is upon reaching a predetermined time and data.

59. (Original) The method of Claim 55, wherein the software program includes VoiceXML.

60. (Original) The method of Claim 55, wherein the step of responding includes connecting the customer to a third party.

61. (Original) The method of Claim 55, wherein the step of responding includes contacting a third party with information from the interactive telephony session.

62. (Original) A method for providing a telephony session, the method including:

receiving an HTTP request from a third party to provide the telephony session;

calling a customer in accordance with the request;

accessing a URL providing a VoiceXML application in accordance with the request;

running the VoiceXML application when the customer answers; and

responding to an interaction with the customer during the telephony session.

63. (Original) The method of Claim 62, further including storing the status of the telephony session for access by the third party.

64. (Original) The method of Claim 62, further including monitoring a plurality of telephony servers to determine availability for the telephony session.

65. (Original) The method of Claim 64, further including scheduling the telephony session for a predetermined time.

66. (Original) The method of Claim 64, further including prioritizing a plurality of telephony sessions.

67. (Original) The method of Claim 64, further including receiving a plurality of requests from a plurality of third parties to provide a plurality of telephony sessions.

68. (Original) The method of Claim 67, wherein the plurality of requests are dispatched to the plurality of telephony servers based on a semi-randomized selection process biased toward low load telephony servers.

69. (Original) The method of Claim 64, further including capturing a status of the telephony session.

70. (Original) The method of Claim 62, further including determining whether the request passes a policy check.

71. (Original) The method of Claim 70, wherein the policy check is set by the third party.

72. (Original) The method of Claim 70, wherein the policy check is set by the customer.

73. (Original) The method of Claim 70, wherein the policy check is set by a receiver of the request.

VIII. EVIDENCE APPENDIX

None

VIII. RELATED PROCEEDINGS APPENDIX

None

PTO/SB/21 (09-04)
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TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Application Number	09/769,635
Filing Date	01/24/2001
First Named Inventor	Michael J. Cafarella
Art Unit	2141
Examiner Name	Tan Lien
Total Number of Pages in This Submission: 44	**Attorney Docket Number**: TEL-015

ENCLOSURES *(check all that apply)*

- ☒ Fee Transmittal Form
  - ☐ Fee Attached
- ☐ Amendment / Reply
  - ☐ After Final
  - ☐ Affidavits/declaration(s)
- ☐ Extension of Time Request
- ☐ Express Abandonment Request
- ☐ Information Disclosure Statement
- ☐ Certified Copy of Priority Document(s)
- ☐ Reply to Missing Parts/Incomplete Application
  - ☐ Reply to Missing Parts under 37 CFR 1.52 or 1.53
- ☐ Drawing(s)
- ☐ Terminal Disclaimer
- ☐ Petition
- ☐ Petition to Convert to a Provisional Application
- ☐ Power of Attorney, Revocation Change of Correspondence Address
- ☐ Statement Under 37 CFR 3.73(b)
- ☐ CD, Number of CD(s) _____
- ☐ Request for Refund

Remarks

- ☐ After Allowance Communication to TC
- ☐ Appeal Communication to Board of Appeals and Interferences
- ☒ Appeal Communication to TC *(Appeal Notice, Brief, Reply Brief)*
- ☐ Proprietary Information
- ☐ Status Letter
- ☒ Other Enclosure(s) *(please identify below):*

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SIGNATURE OF APPLICANT, ATTORNEY OR AGENT

Firm Name	BEVER, HOFFMAN & HARMS, LLP	Customer Number	24488
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Date	June 20, 2005	Reg. No.	35,537

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Effective on 12/08/2004
Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818)

FEE TRANSMITTAL For FY 2005

☒ Applicant claims small entity status. See 37 C.F.R. § 1.27

TOTAL AMOUNT OF PAYMENT | **($) 250.00**

Complete if Known	
Application Number	09/769,635
Filing Date	01/24/2001
First Named Inventor	Michael J. Cafarella
Examiner Name	Tan Lien
Art Unit	2141
Attorney Docket No	TEL-015

METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify):_____

☒ Deposit Account Deposit Account Number: **50-0574** Deposit Account Name: **Bever, Hoffman & Harms, LLP**

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FEE CALCULATION

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

	FILING FEES		SEARCH FEES		EXAMINATION FEES		
		Small Entity		Small Entity		Small Entity	
Application Type	Fee ($)	Fee ($)	Fee ($)	Fee ($)	Fee ($)	Fee ($)	**Fees Paid ($)**
Utility	300	150	500	250	200	100	$
Design	200	100	100	50	130	65	$
Plant	200	100	300	150	160	80	$
Reissue	300	150	500	250	600	300	$
Provisional	200	100	0	0	0	100	$

2. EXCESS CLAIM FEES

Fee Description	Fee($)	Small Entity Fee($)
Each claim over 20 or, for Reissues, each claim over 20 and more than in the original patent	50	25
Each independent claim over 3 or, for Reissues, each independent claim more than in the original patent	200	100
Multiple dependent claims	360	180

Total Claims	Extra Claims	Fee($)	**Fee Paid ($)**	Multiple Dependent Claims	
	- 20 or HP =	x	=	Fee($)	Fee($)

HP = highest number of total claims paid for, if great than 20

Indep. Claims	Extra Claims	Fee($)	**Fee Paid ($)**
	- 3 or HP =	x	=

HP = highest number of total claims paid for, if great than 3

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper, the application size fee due is $250 ($125 for small entity) for each additional 50 sheets or fraction thereof. See 35 USC 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee($)	Fee Paid ($)
- 100 =	5- = (round up to a whole number) x		=	

4. OTHER FEE(S)

	Fee Paid ($)
Non-English Specification - $130 fee (no small entity discount)	
Other: **APPEAL BRIEF**	$250.00

SUBMITTED BY

Signature:	Registration No. 35,537	Telephone:	(408) 451-5907
Name (Print/Type) Jeanette S. Harms		Date:	June 20, 2005